

Clerk File No.

310025

The City of Seattle – Legislative Department

Clerk File sponsored by: _____

**Department of Planning and Development
Director's Report relating to Council Bill No.
116479, amending the Land Use Code to
clarify and improve provisions of the
commercial bonus (incentive zoning) program
downtown**

Related Legislation File: _____

Date Introduced and Referred:	To: (committee):
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action:	Disposition:

May 18, 2009
Date Filed with City Clerk

By Theresa T. Dumbauld

Committee Action:

Date	Recommendation	Vote
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This file is complete and ready for presentation to Full Council. _____

Full Council Action:

Date	Decision	Vote
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Director's Report and Recommendations

Downtown Commercial Bonus Amendments

Overview

The Office of Housing (OH) and the Department of Planning and Development (DPD) are proposing amendments to Section 23.49.012 of the Downtown Chapter of the Land Use Code to clarify and improve provisions of the commercial bonus (incentive zoning) program and make certain necessary technical edits. These amendments are intended to address issues that have arisen during implementation of downtown zoning changes adopted by Council in Ordinance 120443 in July 2001.

None of the proposed amendments alters the intent of the original legislation, which was to address a portion of the housing needs resulting from increases in lower wage job tied to new office buildings and hotels downtown. The primary changes are to allow developer contributions to be used in a wider geographic area (within walking distance of downtown or transit serving downtown) and for a wider variety of housing types. This greater flexibility regarding use of bonus funds will help the City better achieve program goals.

This report explains the amendments by Code subsections. Minor technical changes (e.g. correcting outdated formatting, subsection references) are also proposed throughout the ordinance, but are not addressed in this report.

Commercial Bonus for Low-Income Housing

The proposed amendments include the following:

- Allow funding to be used for preservation as well as new housing. Currently, funds may only be used for housing that is newly constructed, is converted from nonresidential use, or is renovated in a residential building that was vacant as of July 2001.
- Allow funding to be used for owner-occupied as well as rental housing for low-income households. Currently, funds may only be used for rental housing.
- Allow funding to be used in a broader geographic area. Currently, funds may only be used to provide low-income housing downtown. A change parallel to the one in the cash option subsection enables the Housing Director to consider performance option proposals for housing in a broader geographic area as well.
- Under the proposed changes, the program would continue serving extremely low-income (30% AMI), very low-income (50% AMI), and low-income (80% AMI) workers, but the existing table is replaced with easier to understand language with the total housing set-aside of 15.6% and corresponding fee-in-lieu amount of \$18.75. The total percentage set-aside and cash option amount would stay the same as adopted by Council in the 2001 legislation.

Relationship to the Comprehensive Plan

Comprehensive Plan policies support the use of zoning incentives for affordable housing and other public benefits.

The goals and strategies laid out in the Comprehensive Plan's Urban Village, Land Use and Neighborhood Planning Elements were the basis for the proposed incentive zoning program. There are specific policies about providing zoning incentives for affordable housing that are advanced by the proposed amendments:

- Land Use Policy 5 (#2) -- Seek opportunities to incorporate incentive programs for development of housing affordable to lower-income households into legislative rezones or changes in development regulations that increase development potential. Consider development regulations that condition higher-density development on the provision of public benefits when such public benefits will help mitigate impacts of development attributable to increased development potential.
- Land Use Policy 102 -- Use zoning incentives and other development-related tools to provide for, or preserve, public benefits. Public benefits or other features may include housing affordable to low-and moderate income households, preservation of historic resources or provisions of new public open space.
- Housing Policy 34 -- Promote the continued production and preservation of low-income housing through incentive zoning mechanisms, which include density and height bonuses and the transfer of development rights. Consider expanding the use of incentive zoning for affordable housing in neighborhoods outside downtown, particularly in urban centers.

The proposed amendments are consistent with land use and housing policies related to incentive zoning.

The following table includes a brief description of the amendments by Land Use Code Section.

Land Use Code Section	Description of proposed change
23.49.012 A.1 Subsection A General Provisions	Clarifies that impacts from additional development include an increased need for low-income housing to house families of downtown workers.
23.49.012 A.2 General Provisions Subsection A General Provisions	Clarifies that developer acceptance of a permit for any bonus development allowed constitutes a voluntary agreement to provide low-income housing and childcare.
23.49.012 B Subsection B Housing - Voluntary Agreements for Housing and Child Care	The amendment replaces the table in the current Code that requires housing set-asides for up to 30%, 50% and 80% of median income of 0.01905335, 0.06058827, and 0.07614345 gross square feet, respectively, with plain language stating the total housing set-aside of 15.6% and total alternative fee-in-lieu amount of \$18.75. This simpler format mirrors the City's newer incentive programs, including the residential bonus in Chapter 58A. The 80% AMI affordability limit for the downtown commercial bonus program does not change.
23.49.012 B.1.b, including 23.49.012 B.1.b.1) Subsection B Housing	<p>Allows the Housing Director to consider performance option proposals by commercial developers for low-income housing in a broader geographic area, prioritized as follows:</p> <ol style="list-style-type: none"> 1. Within the Downtown Urban Center or a nearby neighborhood; 2. In the City within 0.5 mile of a light rail or bus rapid transit station on a route serving the Downtown Urban Center; 3. In the City within 0.25 mile of a bus or streetcar stop on a route serving the Downtown Urban Center. <p>This broader geography to include areas within walking distance of downtown or public transit serving downtown is the same as proposed for cash contribution-funded low-income housing. This better serves the original intent of the program to provide affordable housing in areas that enable workers easy access to downtown.</p>
23.49.012 B.1.b.2) Subsection B Housing	Adds a subsection allowing low-income housing for owner-occupancy. Expected annual housing costs, including mortgage, taxes, insurance, and homeowner dues (if applicable) could not exceed 35% of annual income for a low-income homebuyer household, consistent with other City affordable housing programs.

Land Use Code Section	Description of proposed change
	The change allowing funding to be used for owner as well as rental occupancy housing reflects current City efforts to support both housing types through incentive programs.
23.49.012 B.1.c Subsection B Housing	Allows new construction or renovation of low-income units. This reflects the City's interest in supporting both preservation as well as new construction.
23.49.012 B.1.h Subsection B Housing	Clarifies reporting requirements for rental and owner-occupied low-income housing provided under the performance option. A recorded instrument would govern transfer of owner-occupied units to ensure that requirements outlined in 23.49.012 B.1.b.2) (e.g. affordability of housing costs, household income limit, and condition of unit) are enforced throughout 50 year term.
23.49.012.C Subsection C Cash Option Payments	Parallel to the changes made in the performance option sections, the amendments in subsection C clarify that cash payments made in lieu of providing low-income housing may be used for new construction or renovation of housing for low-income renters or homebuyers. The bonus funds could also be used for homebuyer assistance.
23.49.012.C Subsection C Cash Option Payments	The changes in the cash option subsection include authorization of up to 10% of funds to help support the City's administration of the program and projects.
23.49.012.C Subsection C Cash Option Payments	<p>Currently, bonus funds may only be used for new low-income housing and childcare within limited area, the Downtown Urban Center (south of Denny Way to include the International District and Pioneer Square and mostly west of I-5). Increasing land costs in the downtown core have made it increasingly difficult to identify cost effective low-income housing sites.</p> <p>Expanding eligible sites to include areas within walking distance of, or with transit access to, the downtown enables consideration of other housing that would serve downtown workers, in alignment with Comprehensive Plan transportation and growth policies. The location of bonus-funded housing and childcare would be prioritized as follows:</p> <ol style="list-style-type: none"> 1. Within the Downtown Urban Center or a nearby neighborhood; 2. In the City within 0.5 mile of a light rail or bus rapid transit

Land Use Code Section	Description of proposed change
	<p>station on a route serving the Downtown Urban Center;</p> <p>3. In the City within 0.25 mile of a bus or streetcar stop on a route serving the Downtown Urban Center.</p>

Conclusion

The proposed code amendments will allow the development of affordable housing outside of the more narrow geographic area identified in the current code. As described in the table above, an expansion of eligible sites where commercial bonus funds could be used to preserve or construct affordable housing outside of downtown is proposed. The amendments do not affect the amount of possible cash contributions by commercial developers.

Assuming most commercial developers choose the payment option, it is possible that the City could receive between \$14.2 million and \$39.4 million of cash contributions, including funds received in the past 18 months plus estimated contributions in the next 5 years. That would support development of between 150 and 500 affordable units depending on the level of commercial development activity and actual per unit costs for affordable housing. As noted in the table above, the location of bonus-funded housing and childcare would be prioritized as follows: (1) within the Downtown Urban Center or a nearby neighborhood; (2) in the City within 0.5 miles of a light rail or bus rapid transit station on a route serving the Downtown Urban Center; or (3) within 0.25 miles of a bus or streetcar station on a route serving the Downtown Urban Center.

The Department of Planning and Development and the Office of Housing recommend approval of the proposed amendments.